

LEAVE DIVISION, OFFICE OF ADMINISTRATIVE SERVICES, OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. ROMEO L. DE LEMOS, CLERK OF COURT VI, DOMINADOR C. MASANGKAY, SHERIFF IV, ...

A.M. NO. P-11-2953. September 28, 2011

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is an administrative case for dishonesty against six personnel of the Office of the Clerk of Court, Regional Trial Court (RTC) of Balanga City, Bataan: (1) Atty. Romeo L. de Lemos, Clerk of Court VI; (2) Dominador C. Masangkay, Sheriff IV; (3) Adelaida D. Tolentino, Cash Clerk II; (4) Ma. Fatima M. Yumena, Data Entry Machine Operator II; (5) Ma. Fe E. Yumol, Court Aide II; and (6) Ronald M. Taguinod, Process Server.

The Facts

The Leave Division of the Office of Administrative Services, Office of the Court Administrator, found irregularities in the Bundy card entries for the month of November 2009 of de Lemos, Masangkay, Tolentino, Yumena, Yumol, and Taguinod. The employees made it appear that they arrived on time in the morning when the entries were actually made in the evening of the same dates.

On 17 March 2010, Deputy Court Administrator Jesus Edwin A. Villasor (DCA Villasor) requested Executive Judge Remigio M. Escalada, Jr. (Judge Escalada) of the RTC of Balanga City, Bataan to (1) direct his six personnel to explain the irregularities within 10 days from notice, and (2) provide a certified true copy of the court's logbook of attendance for the month of November 2009.

Judge Escalada sent his Compliance dated 15 April 2010. Judge Escalada apologized that he could not send a copy of the requested logbook since the entire logbook was lost, as reported by de Lemos and his staff. The loss occurred sometime in the first week of January 2010 when the Office of the Clerk of Court was transferring records and equipment from the Provincial Capitol Building, where the RTC held temporary office, back to the Hall of Justice of Balanga City, Bataan. The new logbook covered only the attendance data starting 4 January 2010. Judge Escalada also mentioned that on 8 April 2010 he conducted an investigation on the matter.

In the Initial Investigation Report dated 16 April 2010 of Judge Escalada, all six employees admitted having altered the entries in their Bundy cards. De Lemos spoke for the group and explained that sometime in October 2009, the Office of the Clerk of Court and all of Branches 1 to 4 of the RTC of Bataan, including the Office of the Provincial Prosecutor, the Office of the District Public Attorney and the Bataan Parole and Probation Office, all housed in the Hall of Justice of Balanga City, which was then under major rehabilitation, were temporarily relocated to the Bataan Capitol Compound.

Since the temporary office was some 150 meters away from the Hall of Justice where the court's bundy clock is installed, the employees would sometimes forget to take their bundy cards to punch in at the Hall of Justice. De Lemos also mentioned that there were mornings in the month of November 2009 that they found it difficult to punch in their bundy cards because of heavy rains.

However, de Lemos and his five personnel denied that they were not present from work during the days they punched in their cards in the evening. Although they could not present concrete proof that they reported on time in the mornings of November 6, 12, 17, 20 and 26, they presented testimonial evidence to confirm that they did report for work. Those who attested to these facts were Atty. Alfredo S. de la Cruz, District Attorney of the Public Attorney's Office; Richard L. Salaya (Salaya), Parole and Probation Officer II of the Bataan Parole and Probation Office; and Rosanna A. Vergel, Administrative Aide IV of the Department of Agriculture detailed at the Provincial Governor's Office-Iskolar ng Bataan.

Judge Escalada verified with the three witnesses and all attested to seeing the six personnel during the entire office hours of the questioned dates, except for Salaya who only confirmed their presence on the 6[th], 12[th], 17[th] and 20[th] of November since he was on paternity leave on the 26[th] of the same month. All the three witnesses expressed their willingness to execute affidavits in support of what they had alleged. The respective affidavits were later on submitted and attached to the records.

In addition, de Lemos and the five court personnel confessed having committed the same irregularities in two or three other instances before the month of November 2009 for "thinking that there was really no harm done" and even reported being late on certain dates which they have readily disclosed on their attendance sheets.

Judge Escalada concluded by stating that the acts of the six personnel were done without malice or intent to mislead. All of them expressed their remorse and promised never to commit the same wrongdoing in the future.

After the investigation, Judge Escalada required the six personnel to file separate written explanations to DCA Villazor. All six court personnel complied with the directive. All acknowledged committing the irregularities in their November 2009 bundy cards. However, they justified their action stating that they only punched in their bundy cards after office hours in order to reflect their actual time-in in the morning of said dates. Their statements were further corroborated by the three main witnesses who disclosed that all reported for work on those days. Ultimately, they asked for the court's mercy and apologized for their wrongdoing. They also showed remorse for their improper behavior and cited the nature of their jobs, good performance rating, and length of satisfactory service in the judiciary.

The OCA's Report and Recommendation

In its Report dated 3 May 2011, the OCA found all six court personnel administratively liable for their acts. The OCA stated that administrative liability does not end by mere show of remorse. Respondents' admission of punching their bundy cards after office hours to reflect their actual time-in coupled with a mistaken belief that such act will not register in the bar code of the bundy clock as altered is deceitful and impermissible.

The OCA added that the affidavits of respondents' three witnesses were self-serving and deserved scant consideration. The witnesses only attested to the fact that they saw all six respondents reporting for work on the questioned dates but did not attest as to the specific time that the six court personnel reported or left for work.

The OCA made this recommendation:

Premises considered, it is respectfully recommended that this matter be RE-DOCKETED as a regular administrative matter and that respondents Sheriff IV Dominador Masangkay, Cash Clerk II Adelaida Tolentino, DEMO II Ma. Fatima Yumena, Court Aide II Ma. Fe Yumol, and Process Server Ronald M.

Taguinod, all of the Regional Trial Court, Office of the Clerk of Court, Balanga City, Bataan be FINED in the amount of P3,000.00 each with SEVERE REPRIMAND and Clerk of Court VI, Atty. Romeo L. De Lemos be FINED in the amount of P5,000.00, all for Irregularity in the Entries of their Bundy Cards with a WARNING that a repetition of the same infraction will warrant the imposition of a more severe penalty.

The Court's Ruling

After a careful review of the records of the case, we find reasonable grounds to hold all six respondents administratively liable for dishonesty.

OCA Circular No. 7-2003, referring to the Certificates of Service and Daily Time Records/Bundy Cards of Judges and Personnel of the Lower Courts, provides:

In the submission of Certificates of Service and Daily Time Records (DTRs)/Bundy Cards by Judges and court personnel, the following guidelines shall be observed:

- After the end of each month, every official and employee of each court shall accomplish the Daily Time Record (Civil Service Form No. 48)/Bundy Card, indicating therein truthfully and accurately the time of arrival in and departure from the office x x x.

The circular provides that every court official and employee must truthfully and accurately indicate the time of his or her arrival at and departure from the office. Equally important is the fact that this Court has already held that the punching of one's daily time record is a personal act of the holder. It cannot and should not be delegated to anyone else. This is mandated by the word every in the above-quoted circular.[1]

Also, Section 4, Rule XVII (on Government Office Hours) of the Omnibus Civil Service Rules and Regulations Implementing Book V of Executive Order No. 292 states:

Section 4. Falsification or irregularities in the keeping of time records will render the guilty officer or employee administratively liable x x x.

In the present case, respondents' admission of allowing one of the staff from the Office of the Clerk of Court, Balanga City, Bataan to punch in all the bundy cards of the six court personnel, indicating the almost identical time in and time out on their daily time records at the questioned dates, constitutes falsification. They made it appear that their log-in time was made in the morning instead of the actual time-in made in the evening of the 6[th], 12[th], 17[th], 20[th] and 26[th] of November 2009.

Falsification or irregularities in the keeping of time records constitute dishonesty, which is a grave offense punishable by dismissal from the service. However, in several administrative cases[2] involving dishonesty, mitigating circumstances merited the leniency of the Court. The presence of factors such as length of service in the judiciary, acknowledgment of infractions and feeling of remorse, and family circumstances, among other things, play an important role in the imposition of penalties.

Here, circumstances exist that mitigate the liability of the respondents. Judge Escalada, in his Initial Investigation Report dated 16 April 2010, stated that all six court personnel readily admitted their mistakes and they apologized for their actions. He expressed his view that the changes in the bundy cards were made by respondents without any malice or intent to mislead. Also, in their respective written explanations submitted to the OCA, the respondents promised to mend their ways. Since this is their first infraction, the respondents deserve another chance.

However, considering the seriousness of the offense, we modify the OCA's recommendation, and increase the fine to P5,000.00 with a stern warning for all respondents, except for Clerk of Court VI Atty. Romeo L. de Lemos. As

correctly observed by the OCA, de Lemos, being the administrative officer who acts on applications for leave of absence and signs the daily time records, has a greater responsibility and is personally accountable for the attendance of the five respondents, who are under his administrative control and supervision. Thus, his penalty should be more severe and a fine of P10,000.00 with a stern warning is more appropriate.

In *Office of the Court Administrator v. Isip*,^[3] we held that all court employees must exercise at all times a high degree of professionalism and responsibility, as service in the Judiciary is not only a duty but also a mission. The Court has repeatedly emphasized that everyone in the judiciary, from the presiding judge to the clerk, must always be beyond reproach, free of any suspicion that may taint the judiciary. Public service requires utmost integrity and discipline. A public servant must exhibit at all times the highest sense of honesty and integrity, for no less than the Constitution mandates the principle that "a public office is a public trust and all public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency." As the administration of justice is a sacred task, the persons involved in it ought to live up to the strictest standards of honesty and integrity. Their conduct, at all times, must not only be characterized by propriety and decorum, but must also be above suspicion. Thus, every employee of the judiciary should be an example of integrity, uprightness, and honesty.

WHEREFORE, we find respondents Dominador C. Masangkay, Sheriff IV; Adelaida D. Tolentino, Cash Clerk II; Ma. Fatima M. Yumena, DEMO II; Ma. Fe E. Yumol, Court Aide II; and Ronald M. Taguinod, Process Server, all from the Office of the Clerk of Court, Regional Trial Court of Balanga City, Bataan, GUILTY of DISHONESTY and FINE each of them P5,000.00 with a stern warning that a repetition of the same or similar acts in the future shall be dealt with more severely.

We also find respondent Atty. Romeo L. de Lemos, Clerk of Court VI, Office of the Clerk of Court, Regional Trial Court of Balanga City, Bataan, GUILTY of DISHONESTY and FINE him P10,000.00 with a stern warning that a repetition of the same or similar acts in the future shall be dealt with more severely.

SO ORDERED.

Brion, Peralta,[*] Perez, and Mendoza,**] JJ., concur.

[*] Designated Acting Member per Special Order No. 1074 dated 6 September 2011.

[**] Designated Acting Member per Special Order No. 1066 dated 23 August 2011.

[1] *Garcia v. Bada*, A.M. No. P-07-2311, 23 August 2007, 530 SCRA 779, citing *In Re: Irregularities in the Use of Logbook and Daily Time Records by Clerk of Court Raquel D. J. Razon, Cash Clerk Joel M. Magtuloy and Utility Worker Tiburcio O. Morales, MTC-OCC, Guagua, Pampanga*, A.M. No. P-06-2243, 26 September 2006, 503 SCRA 52.

[2] *Id.*; *In Re: Employees Incurring Habitual Tardiness in the First Semester of 2005*, A.M. No. 2005-25-SC, 6 July 2006, 494 SCRA 422.

[3] A.M. No. P-07-2390, 19 August 2009, 596 SCRA 407.

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